IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.1779 OF 2004

Dinesh Sesmal Parmar .. Plaintiff

versus

Nisar Ismail Dakhane .. Defendant

...

Mr.K.C. Pande i/b R.M.. Tiwarii for the plaintiff.

None for the defendants.

CORAM : D.G. KARNIK,J.

DATED : 13th April 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendant.

2. Perused the affidavit of service dated 2nd/9th September 2004. Despite service of writ of summons, the defendant has not filed an appearance.

3. The plaintiff has filed on record original documents and affidavit proving the documents. I

have perused the plaint and the documents filed on record. For a valuable consideration, the defendant executed a promissory note agreeing to pay on demand Rs.90,000/-. The defendant also issued a cheque of Rs.90,000/- in favour of the plaintiff. The cheque was dishonoured when presented for payment. Despite notice of demand, the defendant failed and neglected to make the payment. The plaintiff has therefore entitled to a decree.

4. In the absence of appearance, plaintiff is also entitled to a decree under Order 37 Rule 2(3) of the Code of Civil Procedure. Hence, suit of the plaintiff is decreed in terms of the prayer clause of the plaint.

5. Issue court fee refund as per rules.

D.G. KARNIK, J